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MARTIN & FERRARO, LLP

ATTORNEYS AT LAW

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FACSIMILE TRANSMITTAL

TO:**Name:** Mail Stop PETITIONS

Group Art Unit 3772

Examiner Michael A. Brown

Firm: U.S. Patent & Trademark Office**Fax No.:** 571-273-8300**Subject:** U.S. Patent Application No. 10/631,309

Gary K. Michelson

Filed: July 31, 2003

METHOD FOR THE DELIVERY OF ELECTRICAL**CURRENT TO PROMOTE BONE GROWTH****BETWEEN ADJACENT BONE MASSES**

Attorney Docket No. 101.0037-02000

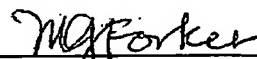
Customer No. 22882

Confirmation No.: 1889

FROM:**Name:** Amedeo F. Ferraro, Esq.**Phone No.:** 310-286-9800**No. of Pages (including this):** 14**Date:** January 16, 2008**Confirmation Copy to Follow:** NO

Message:**CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8**

I hereby certify that the attached Petition Under 37 C.F.R. § 1.181(a) For Withdrawal of Improper Notice of Abandonment; a copy of the Reply to Office Action and Terminal Disclaimer filed June 11, 2007 and the Auto-Reply Facsimile Transmission received from the USPTO dated June 11, 2007; a copy of a Status Inquiry with transmittal facsimile transmittal form, confirmation report, and PTO Auto-Reply dated December 6, 2007; and Declaration of Amedeo F. Ferraro are being facsimile transmitted to the U.S. Patent and Trademark Office on January 16, 2008.



Miyabi Grace Forker

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JAN 16 2008

PATENT
Attorney Docket No. 101.0037-02000
Customer No. 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	Confirmation No.: 1889
Gary Karlin Michelson)	
Serial No.: 10/631,309)	Group Art Unit: 3772
Filed: July 31, 2003)	Examiner: Michael A. Brown
For: METHOD FOR THE DELIVERY)	
OF ELECTRICAL CURRENT TO)	
PROMOTE BONE GROWTH)	
BETWEEN ADJACENT BONE)	
MASSSES)	

Mail Stop PETITIONS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

PETITION UNDER 37 C.F.R. § 1.181(a)
FOR WITHDRAWAL OF IMPROPER NOTICE OF ABANDONMENT

Applicant respectfully petitions the Commissioner to withdraw this application from abandonment. Applicant received a Notice of Abandonment dated January 7, 2008, due to failure to respond to an Office letter mailed May 30, 2007. Applicant filed a Reply to the Office Action and Terminal Disclaimer on June 11, 2007 by facsimile transmission to the U.S. Patent and Trademark Office. As can be seen from PAIR, the Reply and Terminal Disclaimer were received and entered into the system. On December 6, 2007, Applicant filed a Status Inquiry and thereafter, we received the Notice of Abandonment. Applicant encloses, for the Commissioner's convenience, the following items:

1. A copy of the Reply to Office Action and Terminal Disclaimer filed June 11, 2007 and the Auto-Reply Facsimile Transmission received from the USPTO dated June 11, 2007;
2. A copy of a Status Inquiry with transmittal facsimile transmittal form, confirmation report, and PTO Auto-Reply dated December 6, 2007; and
3. Declaration of Amedeo F. Ferraro.

This Petition is being filed within two months from the action complained of pursuant to 37 C.F.R. § 1.181(f), and does not require a fee pursuant to MPEP 711.03(c)(I).

Applicant respectfully requests that the holding of abandonment be withdrawn and the Reply to Office Action and Terminal Disclaimer dated June 11, 2007 be entered and considered on the merits.

If there are any fees due in connection with the filing of this Petition, please charge the fee to our Deposit Account 50-1066.

Respectfully submitted,

MARTIN & FERRARO, LLP

Dated: January 16, 2008

By: 

Amedeo F. Ferraro
Registration No. 37,129

1557 Lake O'Pines Street, NE
Hartville, Ohio 44632
Telephone: (310) 286-9800
Facsimile: (310) 286-2795

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JAN 16 2008

PATENT
Attorney Docket No. 101.0037-02000
Customer No. 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	Confirmation No.: 1889
Gary Karlin Michelson)	
Serial No.: 10/631,309)	Group Art Unit: 3772
Filed: July 31, 2003)	Examiner: Michael A. Brown
For: METHOD FOR THE DELIVERY)	
OF ELECTRICAL CURRENT TO)	
PROMOTE BONE GROWTH)	
BETWEEN ADJACENT BONE)	
MASSES)	

Mail Stop PETITIONS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

DECLARATION OF AMEDEO F. FERRARO

Amedeo F. Ferraro declares as follows:

This declaration is made in support of the above-identified patent application.

I am the attorney for applicant of the above-identified patent application. The facts set forth in this declaration are based on my own first-hand knowledge.

On June 11, 2007, Applicant filed a Reply to the Office Action dated May 30, 2007 and Terminal Disclaimer by facsimile transmission to the U.S. Patent and Trademark Office. After receiving no further communication from the Examiner, Applicant filed a Status Inquiry on December 6, 2007.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 1 of the United States Code, and that such willful false statements may jeopardize the validity of the above-referenced application or any patent issuing thereon.

January 16, 2008

Date



Amedeo F. Ferraro

USPTO

6/11/2007 6:47:38 PM

PAGE

1/001

Fax Server

Auto-reply fax to 3102862 COMPANY:

Auto-Reply Facsimile Transmission



TO:

Fax Sender at 3102862795

Fax Information

Date Received:

6/11/2007 6:44:18 PM [Eastern Daylight Time]

Total Pages:

7 (including cover page)

ADVISORY: This is an automatically generated return receipt confirmation of the facsimile transmission received by the Office. Please check to make sure that the number of pages listed as received in Total Pages above matches what was intended to be sent. Applicants are advised to retain this receipt in the unlikely event that proof of this facsimile transmission is necessary. Applicants are also advised to use the certificate of facsimile transmission procedures set forth in 37 CFR 1.8(a) and (b), 37 CFR 1.6(f). Trademark Applicants, also see the Trademark Manual of Examining Procedure (TMEP) section 306 et seq.

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Cover
Page
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01-11-07	02:44pm	From: MARTIN & FERRARO LLP CA	3102862795	T-420	P-01	P-385
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MARTIN & FERRARO, LLP
ATTORNEYS AT LAW
1925 Century Park East, 17th Floor
Los Angeles, California 90067

Telephone: (310) 286-9400 Facsimile: (310) 286-2795

FACSIMILE TRANSMITTAL

TO:	FROM:
Name: Mail Stop AMENDMENT Group Art Unit 3772 Examiner Michael A. Brown	Name: Amedeo F. Ferraro, Esq.
Firm: U.S. Patent & Trademark Office	Phone No.: 310-286-9800
Fax No.: 571-273-8300	No. of Pages (including this): 7
Subject: U.S. Patent Application No. 10/631,309 Gary E. McShelton Filed: July 31, 2003 METHOD FOR THE DELIVERY OF ELECTRICAL CURRENT TO PROMOTE BONE GROWTH BETWEEN ADJACENT BONE MASSES Antony Deckert No. 101.0037-02000 Customer No. 22582 Confirmation No.: 1889	Date: June 11, 2007

Confirmation Copy to Follow: NO

Message:

CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that the attached Transmittal Form (in duplicate; \$130.00 total amount to cover the Terminal Disclaimer fee to be charged to Deposit Account No. 50-1066), Reply to Office Action and Terminal Disclaimer are being facsimile transmitted to the U.S. Patent and Trademark Office on June 11, 2007.

Miyabi Grace Forster

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PAGE 17 * RCVD AT 6/11/2007 6:44:18 PM [Eastern Daylight Time] * SVR:USPTO-EFXXF-6/45 * DNIS:2738300 * CSID:3102862795 * DURATION (mm-ss):02:50

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T-420. P.01

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JUN 11 2007MARTIN & FERRARO, LLP
ATTORNEYS AT LAW
1925 Century Park East, 17th Floor
Los Angeles, California 90067Telephone
(310) 286-9800Facsimile
(310) 286-2795

FACSIMILE TRANSMITTAL

TO:

Name: Mail Stop AMENDMENT
Group Art Unit 3772
Examiner Michael A. Brown

Firm: U.S. Patent & Trademark Office

Fax No.: 571-273-8300

Subject: U.S. Patent Application No. 10/631,309

Gary K. Michelson

Filed: July 31, 2003

METHOD FOR THE DELIVERY OF ELECTRICAL
CURRENT TO PROMOTE BONE GROWTH
BETWEEN ADJACENT BONE MASSES

Attorney Docket No. 101.0037-02000

Customer No. 22882

Confirmation No.: 1889

FROM:

Name: Amedeo F. Ferraro, Esq.

Phone No.: 310-286-9800

No. of Pages (including this): 7

Date: June 11, 2007

Confirmation Copy to Follow: NO

Message:

CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8

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Miyabi Grace Forker

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PAGE 1/7 * RCVD AT 6/11/2007 6:44:18 PM [Eastern Daylight Time] * SVR:USPTO-EFAXF-3/19 * DNIS:2738300 * CSID:3102862795 * DURATION (mm-ss):02:30

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08-11-07 02:44pm From: MARTIN & FERRARO LLP CA

3102862795

T-420 P.02/07 F-365

FORM PTO-1083

Attorney Docket No.: 101.0037-02000
Customer No. 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Gary Karlh Michelson

Serial No: 10/631,309

Filed: July 31, 2003

For: METHOD FOR THE DELIVERY OF
ELECTRICAL CURRENT TO PROMOTE
BONE GROWTH BETWEEN ADJACENT
BONE MASSES

Confirmation No.: 1889

Art Unit: 3772

Examiner: Michael A. Brown

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JUN 11 2007

Mail Stop AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Transmitted herewith is a reply to the Office Action dated May 30, 2007 in the above-identified application.

- ☐ No additional fee is required.
☐ Applicant hereby requests a ***month extension of time to respond to the above office action.
☒ Terminal Disclaimer is enclosed.

The fee has been calculated as shown below:

The fee has been calculated as shown below:							
	(Col. 1) CLAIMS REMAINING AFTER AMENDMENT		(Col. 2) HIGHEST NUMBER PREVIOUSLY PAID FOR		(Col. 3) PRESENT EXTRA*	LG/EM \$ ENTITY FEE	ADD'L FEE DUE
TOTAL CLAIMS FEE	44	-	44	-	0	LG=\$50 SM=\$25	\$50 \$ 0
INDEPENDENT CLAIMS FEE	1	-	3	-	0	LG=\$200 SM=\$100	\$200 \$ 0
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIMS						LARGE ENTITY FEE = \$380 SMALL ENTITY FEE = \$180	\$ 0
TOTAL							\$ 0

* If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.

** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, write "20" in this space.

*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, write "3" in this space. The "Highest Number Previously Paid For" (Total or Independent) is the highest number found from the equivalent box on Col. 1 of a prior amendment or the number of claims originally filed.

- ☒ The total amount of \$130.00 to cover the Terminal Disclaimer fee is to be charged to Deposit Account No. 50-1088.
☒ The Commissioner is hereby authorized to charge any deficiencies of fees associated with this communication or credit any overpayment to Deposit Account No. 50-1088. A copy of this sheet is enclosed.
☒ Any filing fees under 37 C.F.R. § 1.16 for the presentation of extra claims
☒ Any patent application processing fees under 37 C.F.R. § 1.17

Respectfully submitted,

MARTIN & FERRARO, LLP

By:


Amadeo C. Ferraro
Registration No. 37,129

Date: June 11, 2007

1557 Lake O'Pines Street, NE
Hartsville, Ohio 44832
Telephone: (330) 877-0700
Facsimile: (330) 877-2030

PAGE 2/7 * RCVD AT 6/11/2007 6:44:18 PM [Eastern Daylight Time] * SVR:USPTO-EFXXRF-3/19 * DNIS:2738300 * CSID:3102862795 * DURATION (mm:ss):02:30